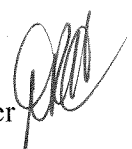



City of Loma Linda Official Report

Floyd Petersen, Mayor
Stan Brauer, Mayor pro tempore
Robert Christman, Councilmember
Robert Ziprick, Councilmember
Charles Umeda, Councilmember

COUNCIL AGENDA: January 10, 2006

TO: City Council

VIA: Dennis R. Halloway, City Manager 

FROM: Deborah Woldruff, AICP, Community Development Director 

SUBJECT: DEVELOPMENT CODE AMENDMENT (DCA) NO. 05-02
(ART IN PUBLIC PLACES)

RECOMMENDATION

The recommendation is that the City Council take the actions, as follows:

- 1) Open public hearing and take public testimony;
- 2) Waive reading of the proposed ordinance in its entirety;
- 3) Direct the Clerk to read by title only; and,
- 4) Adopt on roll call vote.

BACKGROUND

On December 13, 2005, the City Council adopted the Ordinances for Development Code Amendment No. 05-02 (Art In Public Places) with the modification that the City Council be added as the final review authority for the approval of public art proposals and/or projects. The appropriate revisions were made to the proposed ordinance. The Council scheduled the second reading for the meeting on January 10, 2005.

ATTACHMENTS

- A. Art in Public Places Ordinance

I:\Project Files\DCA\DCA 05-02 (Art In Public Places)\CCSR 1-10-06 2nd.doc

Attachment A

(Ordinance)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA
ADDING CHAPTER 17.26 TO TITLE 17 OF THE LOMA LINDA MUNICIPAL
CODE TO ESTABLISH REGULATIONS, CRITERIA, AND STANDARDS FOR ART
IN PUBLIC PLACES.

WHEREAS, the Land Use Element of the Loma Linda General Plan requires the City to encourage a harmonious mix of residential, commercial and industrial land uses which will generate sufficient tax revenues to pay the costs of maintaining the desired levels of services and adequate infrastructure facilities, and it also states that the City will "Require that the design and siting of new residential development meet locational and development standards that ensure compatibility with adjacent land uses and community character," and

WHEREAS, the proposed amendment to the Land Use Development Code is consistent with the goals and policies of the City of Loma Linda General Plan; and

WHEREAS, the City has a responsibility to assure adherence to the General Plan in meeting the needs and desires of its residents and the community in general; and

WHEREAS, the Department of Community Development of the City has evaluated the potential environmental impacts that could result from the adoption of an ordinance establishing standards and review procedures for art in public places, and has found that the proposed zoning regulations are categorically exempt from the California Environmental Quality Act (CEQA) and CEQA Guidelines; and

WHEREAS, the City Council has reviewed and considered the information in the Agenda Report, as well as public testimony presented at the hearing;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings, Purpose and Intent.

A. This Ordinance is adopted by the City Council pursuant to the City's goal to address the quality of living in Loma Linda and the standards that should be developed for evaluating programs and policies that achieve this end.

B. The Zoning Code provides for the orderly use and development of all property in the City. However, the Code, as adopted, does not have a public art component that would establish a visual arts programs for the residents and visitors of the City. For the reasons set forth below, and to create development standards that ensure improvements to the quality of life in the City, the City Council finds that it is desirable to review and consider the adoption of design standards and review procedures as part of the City's development code.

C. The establishment of a Public Arts Program will revitalize the City's image and enhance the visual character of the community as well as curb the negative impacts of developments in general.

Section 2. Chapter 17.31 is added to Title 17 of the Loma Linda Municipal Code, to read as follows:

Chapter 17.26

ART IN PUBLIC PLACES

Sections:

17.26.010	Purpose
17.26.020	Definitions
17.26.030	Projects Subject Public Art Requirements
17.26.040	Certificate of Occupancy
17.26.050	Requirement to Pay Art Work or Development Impact Fee
17.26.060	Art Site Acceptability
17.26.070	Criteria for Artwork Selection
17.26.080	Application procedures for placement of artwork on private property
17.26.090	Approval procedures for placement of artwork on private property

17.26.010 Purpose.

(a) The purpose of the Loma Linda public arts program is to develop and maintain a visual arts program for the residents and visitors of Loma Linda, to add to the economic viability of the community, and to enhance the environment and unique character of Loma Linda by providing for the acquisition and maintenance of quality works of public art.

(b) The city council finds and declares as follows:

(1) Cultural and artistic resources enhance the quality of life for individuals living in, working in and visiting the city.

(2) Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment and increases real property values.

(3) As development and revitalization of the real property within the city continues, the opportunity for creation of cultural and artistic resources is diminished.

(4) As this development and revitalization continue as a result of market forces, urbanization of the community results.

(5) As these opportunities are diminished and this urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased.

(6) Development of cultural and artistic assets should be financed by those whose development and revitalization diminish the availability of the community's resources for those opportunities and contribute to community urbanization.

(7) Establishment of this public arts program will promote the general welfare through balancing the community's physical growth and revitalization and its cultural and artistic resources.

(8) It is the purpose of this chapter to modify, clarify and codify the city's existing public arts program.

17.26.020 Definitions

For the purpose of this chapter:

"Commission" means the Loma Linda Planning Commission.

"Public arts fund" means a separate fund and account which is established to receive monies collected for the designated purposes of the public arts program.

"Public arts program" means the program adopted by the city council.

17.26.030 Projects Subject Public Art Requirements

(a) Requirements.

Except as provided in subsection (b) of this section, the requirements of this chapter shall apply to all works of construction and rehabilitation for which a building permit is required, including but not limited to:

(1) New commercial and industrial construction;

(2) Remodeling or reconstruction of existing commercial or industrial property;

(3) New residential subdivisions or developments of two or more units, whether by detached single-family residential structures, condominiums, apartments, duplexes, townhouses or other dwelling units being built in the same tract by the same owner or developer;

(4) New individual single-family residential units constructed on a lot located in an existing subdivision whose building permit valuation is over one hundred thousand dollars.

(b) Exceptions.

The requirements of this chapter shall not apply to the following activities:

(1) Public projects undertaken by any agency of the city, the state, county, school district or any other governmental entity;

(2) Remodeling, repair or reconstruction of structures to comply with earthquake seismic safety code standards or which have been damaged by fire, flood, wind, earthquake or other calamity;

(3) Remodeling, repair or reconstruction of residential units;

(4) Nonprofit social service or cultural institution projects;

(5) Low to moderate housing projects as defined by household income Health and Safety Code Section 50093;

(6) Affordable housing developments receiving city, state or federal assistance;

(7) Private educational institutions which provide general education equivalent to the public school system (kindergarten through high school or any part thereof);

(8) Architectural rehabilitation or historical preservation of properties which are designated as Class 1 Historic Sites by the city council.

17.26.040 Certificate of Occupancy

(a) No final city approval, such as final inspection or a certificate of occupancy, for any project subject to this chapter shall be granted or issued unless and until full compliance with the public arts program is achieved, in one or more of the following ways:

(1) The approved artwork has been placed in a manner satisfactory to the public arts commission.

(2) In-lieu art fees have been paid.

(3) Financial security in an amount equal to the acquisition and installation costs of an approved artwork, in a form approved by the city attorney, have been posted.

(4) An approved artwork has been donated and accepted by the public arts commission.

17.26.050 Requirement to provide artwork or pay development impact fee

(a) The program allocation, as used in this chapter, is a percentage of the building cost which is set aside for the city's public arts program. The total building valuation shall be computed using the latest building valuation data as set forth by the International Conference of Building Officials (ICBO) unless, in the opinion of the building official, a different valuation measure more accurately represents the value of the building. Excluding land acquisition and off-site improvement costs, the program allocation shall be an amount equal to the percentage of the total building valuation for an applicable project, as listed herein:

(1) One-half of one percent for new commercial and industrial construction;

(2) One-half of one percent for remodel or reconstruction of existing commercial or industrial property;

(3) One-quarter of one percent for new residential subdivisions or developments of two or more units, whether by detached single-family residential structures, condominiums, apartments, duplexes, townhouses or other dwelling units being built in the same tract by the same owner or developer. A project shall be considered a development of two or more units when two or more building permits are issued to the same person for development of new residential structures within a one-hundred-eighty-day period;

(4) One-quarter of one percent for new individual single-family residential units constructed on a lot located in an existing subdivision for that portion of building permit valuation in excess of one hundred thousand dollars.

(b) Nothing in this section shall prohibit the applicant from placing an approved artwork with acquisition and installation costs in an amount less than the program allocation; provided that the applicant shall also pay to the public arts fund an amount equal to the difference between the program allocation and the costs of acquisition and installation of such artwork.

(c) Nothing herein shall restrict the city council from waiving the requirements of this chapter, in whole or in part, with respect to any project otherwise subject to the provisions of this chapter, provided that the city council determines that the project applicant has entered into an agreement with the city providing for the applicant's acquisition and installation of artwork in connection with the development of the project which addresses the goals and aims of this chapter in a manner equally or more favorable to the city than would be achieved by strict compliance with this chapter. In such an event, the city council shall make findings to this effect on the basis of substantial evidence.

17.26.060 Site Acceptability

(a) Placement of Art by Applicant.

The applicant shall place artwork in outdoor areas of the private property that are accessible and used by the public a minimum of eighteen hours per day. Interior spaces, including lobbies, courtyards, malls, etc., may be eligible if they are accessible to the public a minimum of twelve hours per day.

(b) Art Purchased through Public Arts Fund.

When selecting the location for art purchased through the public arts fund, preference shall be given to publicly accessible public places. This would include libraries, parks, office buildings, sidewalks, traffic islands, etc. Lobbies, plazas, adjacent open spaces or exterior treatment of publicly owned buildings shall be potential sites, but the offices themselves of publicly owned buildings shall not be considered acceptable sites.

17.26.070 Criteria for Artwork Selection

(a) Eligible requirements for each project will be established by the public arts commission. Specifically excluded are artworks done by students under the supervision of art instructors to satisfy course requirements and artists who are members of the public arts commission. The following criteria shall be considered in the selection of artwork:

(1) Quality of the artwork;

(2) Media.

All visual art forms may be considered, subject to limitations set by the selection jury or the arts commission;

(3) Style.

Artworks of all schools, styles, and tastes should be considered for the city collection;

(4) Environment.

Artworks and art places should be appropriate in scale, material, form and content for the immediate, general, social and physical environments with which they relate;

(5) Permanence.

Consideration should be given to structural and surface integrity, permanence, and protection against theft, vandalism, weathering, excessive maintenance, and repair costs;

(6) Elements of Design.

Consideration should take into account that public art, in addition to meeting aesthetic requirements, also may serve to establish focal points, terminate areas, modify, enhance, or define specific spaces, or establish identity;

(7) Diversity.

The public arts program should strive for diversity of style, scale, media, artists--including ethnicity and gender and equitable distribution of artworks and art places throughout the city.

(b) The following methods may be used to select artwork:

(1) Direct Purchase.

A completed work of art may be purchased for a specific project or location;

(2) Direct Commission.

An artist may be chosen directly by an artist-selection jury and paid to submit a proposal. Artists will be selected on the basis of their qualifications for a particular project and its probability of successful completion;

(3) Limited Competition.

A small number of artists may be invited and paid by the selection jury to submit proposals;

(4) Open Competition.

Any artist may apply subject to limitations established by the selection jury. No proposal fee is paid to artists; however, a small number of finalists may be selected to submit details, models or plans for which a fee is paid.

(c) In selecting an artwork, the arts commission may appoint a selection jury of qualified persons. The jury shall be subject to the provisions of the Brown Act.

(d) Review by Department of Planning and Zoning.

The department of planning and zoning representative shall review the artwork and its placement and landscaping elements and may refer the artwork to the Planning Commission and City Council for final approval.

17.26.80 Application procedures for placement of artwork on private property

Any artwork being placed on private property as part of the city's public arts program shall be a one-of-a-kind piece. The city encourages applicants to submit an application prior to the development of the architect's schematic design. The requirements and procedures for the processing of a public arts program proposal application (an "arts application") shall be as follows:

(1) Upon submission of a development project application for a project subject to the requirements of this chapter, the department of planning and zoning shall provide to the project applicant a copy of this chapter, an arts application form and the name and phone number of the city's arts administrator.

(2) The project applicant shall submit to the arts administrator the completed arts application form, describing the manner in which the project applicant intends to comply with this chapter.

(3) The arts application shall include:

(a) Preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork;

(b) An appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs;

(c) Preliminary plans containing such detailed information as may be required by the public arts commission to adequately evaluate the location of the artwork in relation to the proposed development, and its compatibility with the proposed development (the artwork shall be an integral part of the landscaping and/or architecture of the building), including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods if necessary to evaluate the proposal;

(d) A narrative statement to demonstrate that the artwork will be displayed in an area open and freely available to the general public, or otherwise provide public accessibility in an equivalent manner based on the characteristics of the artwork or its placement on the site; and

(e) Maintenance factors required to insure its permanence.

17.26.090 Approval procedures for placement of artwork on private property

(a) The application for the proposed artwork and its placement will be considered at a monthly public meeting of the Loma Linda Planning Commission. A department of planning and zoning representative will also review the artwork and its placement and landscaping elements and may refer the application to the City Council for approval. Any changes, questions or recommendations shall be conveyed in writing to the applicant. The commission will determine

when all issued have been addressed and accept or reject the artwork. The applicant will be notified in writing of the public arts commission's decision.

(b) If the applicant proposes or the Planning Commission or City Council recommends significant revisions to the architecture or physical design and layout of the proposed project subsequent to the receipt of the public arts commission's approval, the application shall, if legally permitted, be returned to the public arts commission for further review and recommendation concerning the revised proposal prior to final approval unless the council otherwise directs.

(c) A contract between the city and the applicant spelling out all requirements, including insurance and maintenance, shall be executed prior to the city's final acceptance of the applicant's art-in-lieu proposal.

Section 3. Penalties. If any person shall violate any of the provisions of this Ordinance, or fail to comply with any of the mandatory requirements of this Ordinance, he shall be guilty of an infraction. Any person convicted of an infraction under the provisions of a City Ordinance shall be punishable by (1) a fine of not more than one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same Ordinance within one year and (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same Ordinance within one year. Each such person shall be deemed guilty of a separate offense for every day during such portion of which any violation of this Ordinance is committed, continued or permitted by such person, and shall be punishable therefore as provided by this Ordinance.

Section 4. Validity. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such holding or holdings shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 5. Posting. Prior to the expiration of fifteen (15) days from its passage, the City Clerk shall cause this Ordinance to be posted pursuant to law in three (3) public places designated for such purpose by the City Council.

Section 6. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unlawful.

Ordinance No.
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This Ordinance was introduced at the regular meeting of the City Council of the City of Loma Linda, California, held on the 13th day of December 2005 and was adopted on the ____ day of _____ by the following vote to wit:

Ayes: _____

Nays: _____

Abstain: _____

Absent: _____

Floyd Petersen, Mayor

Attest:

Pamela Byrnes-O'Camb, City Clerk